

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 128

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-5.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) Upon election to become a participant by any officer who is a member of the public employees' retirement fund, the board shall transfer all creditable service standing to the credit of the electing officer under the public employees' retirement fund to the credit of the electing officer under the retirement plan created by this chapter.

(b) Creditable service under this chapter, including credit for military service, shall accrue and be computed and credited to participants in the same manner and in the same amount as creditable service accrues, is computed and credited under the public employees' retirement law.

(c) **In addition to creditable service computed under subsection (b), a participant is entitled to receive creditable service under this chapter for the time the participant receives disability benefits under a disability plan established under IC 5-10-8-7.**

SECTION 2. IC 5-10-5.5-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7.5. (a) **As used in this section, "board" refers to the board of trustees of the public employees'**

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retirement fund established by IC 5-10.3-3-1.

(b) As used in this section, "public retirement fund" refers collectively to:

- (1) the public employees' retirement fund (IC 5-10.3);
- (2) the Indiana state teachers' retirement fund (IC 5-10.4);
- (3) the state police pension trust (IC 10-12); and
- (4) the 1977 police officers' and firefighters' pension and disability fund (IC 36-8-8).

(c) Subject to this section, a participant may purchase service credit for the participant's prior service in a position covered by a public retirement fund.

(d) To purchase the service credit described in subsection (c), a participant must meet the following requirements:

- (1) The participant has at least one (1) year of creditable service in the retirement plan created by this chapter.
- (2) The participant has not attained vested status in and is not an active participant in the public retirement fund from which the participant is purchasing the service credit.
- (3) Before the participant retires, the participant makes contributions to the retirement plan created by this chapter as follows:

(A) Contributions that are equal to the product of the following:

- (i) The participant's salary at the time the participant actually makes a contribution for the service credit.
- (ii) A rate, determined by the actuary for the retirement plan created by this chapter, based on the age of the participant at the time the participant actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.
- (iii) The number of years of service credit the participant intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the retirement plan created by this chapter, for the period from the participant's initial participation in the retirement plan created by this chapter to the date payment is made by the participant.

(e) At the request of the participant purchasing service credit under this section, the amount a participant is required to contribute under subsection (d)(3) may be reduced by a trustee to

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trustee transfer from a public retirement fund in which the participant has an account that contains amounts attributable to member contributions (plus any credited earnings) to the retirement plan created by this chapter. The participant may direct the transfer of an amount only to the extent necessary to fund the service purchase under subsection (d)(3). The participant shall complete any forms required by the public retirement fund from which the participant is requesting a transfer or the retirement plan created by this chapter before the transfer is made.

(f) At least ten (10) years of service in the retirement plan created by this chapter is required before a participant may receive a benefit based on service credit purchased under this section.

(g) A participant who:

- (1) terminates employment before satisfying the eligibility requirements necessary to receive an annual retirement allowance; or
- (2) receives an annual retirement allowance for the same service from another tax supported governmental retirement plan other than under the federal Social Security Act;

may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the retirement plan created by this chapter.

(h) The following may apply to the purchase of service credit under this section:

- (1) The board may allow a participant to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.
- (2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.
- (3) A participant may not claim the service credit for purposes of determining eligibility for a benefit or computing benefits unless the participant has made all payments required for the purchase of the service credit.

(i) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section

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403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the retirement plan created by this chapter may accept, on behalf of a participant who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 3. IC 5-10-5.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) **Except as provided in subsection (c), every participant shall contribute three percent (3%) (4%) of the first eight thousand five hundred dollars (\$8,500) of his participant's annual salary to the participants' savings fund.**

(b) Contributions shall be made in the form of payroll deductions from each and every payment of salary received by the participant. Every participant shall, as a condition precedent to his becoming a participant, consent to the payroll deductions.

(c) An employer may pay all or a part of the contributions for the participant. All contributions made by an employer under this subsection shall be treated as pick-up contributions under Section 414(h)(2) of the Internal Revenue Code.

SECTION 4. IC 5-10-5.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) Benefits provided under this section are subject to section 2.5 of this chapter.

(b) The annual retirement allowance of a participant, payable in equal monthly installments beginning on his the participant's normal retirement date, shall be a percentage of his the participant's average annual salary, such percentage to be twenty-five percent (25%) increased by one and two-thirds percent (1 2/3%) of his the participant's average annual salary for each completed year of

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creditable service more than ten (10) years. ~~and one percent (1%) of his average annual salary for each completed year of creditable service more than twenty-five (25) years.~~

(c) The annual retirement allowance shall cease with the last monthly payment prior to the death of the participant.

SECTION 5. IC 5-10-5.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) Any participant who has attained the age of forty-five (45) years and has accrued at least fifteen (15) years of creditable service may retire and become eligible for benefits as provided in section 12(a) of this chapter.

(b) If:

- (1) a participant is at least fifty-five (55) years of age; and
- (2) the sum of the participant's years of creditable service and age in years equals at least eighty-five (85);

the participant may retire and become eligible for benefits as provided in section 12(b) of this chapter.

(c) A participant who:

- (1) is at least fifty (50) years of age; and**
- (2) has accrued at least twenty-five (25) years of creditable service;**

may retire and become eligible for benefits under section 12(b) of this chapter.

SECTION 6. IC 5-10-5.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(a) of this chapter (relating to early retirement) shall be determined in accordance with section 10(a) of this chapter (relating to normal retirement). However, the amount of annual retirement allowance otherwise payable upon early retirement shall be reduced by one-quarter percent (1/4%) for each full month that the date of early retirement precedes the attainment of the participant's sixtieth birthday.

(b) The amount of annual retirement allowance payable in equal monthly installments to a participant who retires under section 11(b) **or 11(c)** of this chapter (relating to early retirement) shall be determined in accordance with section 10(a) of this chapter (relating to normal retirement).

SECTION 7. IC 5-10-5.5-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13.5. (a) This section applies to participants whose disability occurred after June 30, 1987.

(b) Benefits provided under this section are subject to section 2.5 of this chapter.

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(c) As used in this section, a disability is to be considered to have arisen in the line of duty if the disability is the direct result of:

- (1) a personal injury that occurs while the participant is on duty; or
- (2) a personal injury that occurs while the participant is off duty and responding to an offense or an emergency or a reported offense or emergency;

or if the disability is presumed incurred in the line of duty under IC 5-10-13.

(d) A participant whose disability arose in the line of duty is entitled to a monthly benefit equal to the participant's monthly salary on the date of disability multiplied by the degree of impairment (expressed as a percentage impairment of the person as a whole). However, the monthly benefit under this subsection must be at least:

- (1) twenty percent (20%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or
- (2) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

(e) A participant whose disability did not arise in the line of duty is entitled to a monthly benefit equal to one-half (1/2) of the participant's monthly salary on the date of disability multiplied by the degree of impairment (expressed as a percentage of the person as a whole). However, the monthly benefit under this subsection must be at least:

- (1) ten percent (10%) of the participant's monthly salary on the date of the disability if the participant has more than five (5) years of service; or
- (2) five percent (5%) of the participant's monthly salary on the date of the disability if the participant has five (5) or fewer years of service.

(f) A participant who is receiving a disability benefit under subsection (d) is entitled:

- (1) to receive a disability benefit for the remainder of the participant's life; and**
- (2) to have the participant's benefit recomputed under section 10 of this chapter (relating to normal retirement) when the participant becomes sixty (60) years of age.**

SECTION 8. IC 33-38-7-18, AS AMENDED BY HEA 1480-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) This section applies to a person who:

- (1) is a judge participating under this chapter;

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(2) was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate either:

(A) before becoming a judge; or

(B) after leaving an elected term on the bench;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).

(b) If a person becomes a participant in the judges' 1977 benefit system under section 1 of this chapter, credit for prior or subsequent service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

(1) the ~~prior~~ service was credited under the public employees' retirement fund;

(2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the ~~prior~~ service liability over a period determined by the board, but not more than ten (10) years; and

(3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the ~~prior~~ service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service ~~after the date of participation~~ **earned as a judge** in the 1977 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

(1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:

(A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

(B) based solely on:

(i) creditable service;

(ii) the average of the annual compensation; and

(iii) the amount credited under IC 5-10.2 and IC 5-10.3 to

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the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for ~~prior~~ service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the ~~prior~~ service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit for ~~prior service~~ in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the

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following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 9. IC 36-8-8-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.2. (a) This section applies to an individual:**

- (1) who becomes a member of the 1977 fund under section 7(h) of this chapter;**
- (2) whose appointment as a fire chief or police chief ends after June 30, 2007; and**
- (3) who is not eligible to receive a benefit from the 1977 fund at the end of the individual's appointment as a fire chief or police chief.**

(b) A fund member described in subsection (a) may elect:

- (1) to receive the fund member's contributions to the 1977 fund under section 8 of this chapter; or**
- (2) to transfer the fund member's service credit earned as a fire chief or police chief to PERF under subsection (c).**

(c) If a fund member makes the election described in subsection (b)(2), the PERF board shall:

- (1) grant to the fund member service credit in PERF for all service earned as a fire chief or police chief in the 1977 fund; and**
- (2) transfer from the 1977 fund to PERF:**
 - (A) the fund member's contributions made during the fund member's appointment as a fire chief or police chief to the 1977 fund; plus**
 - (B) the present value of the unreduced benefit that would be payable to the transferring fund member upon retirement under section 10 of this chapter.**

(d) The PERF board shall deposit the amounts transferred to PERF under subsection (c) as follows:

- (1) The fund member's contributions to the 1977 fund shall be credited to the fund member's PERF annuity savings account.**
- (2) The present value of the unreduced benefit that would be payable to the transferring fund member upon retirement under section 10 of this chapter shall be credited to PERF's retirement allowance account.**

(e) For a fund member who makes the election described in subsection (b)(2), all credit for service as a fire chief or police chief

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in the 1977 fund is waived.

SECTION 10. IC 36-8-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) Each fund member shall contribute during the period of ~~his the fund member's~~ employment or for thirty-two (32) years, whichever is shorter, an amount equal to six percent (6%) of the salary of a first class patrolman or firefighter. However, the employer may pay all or a part of the contribution for the member. The amount of the contribution, other than contributions paid on behalf of a member, shall be deducted each pay period from each fund member's salary by the disbursing officer of the employer. The employer shall send to the PERF board each year on March 31, June 30, September 30, and December 31, for the calendar quarters ending on those dates, a certified list of fund members and a warrant issued by the employer for the total amount deducted for fund members' contributions.

(b) **Except as provided in section 7.2 of this chapter**, if a fund member ends ~~his the fund member's~~ employment other than by death or disability before ~~he the fund member~~ completes twenty (20) years of active service, the PERF board shall return to ~~him the fund member~~ in a lump sum ~~his the fund member's~~ contributions plus interest as determined by the PERF board. If the fund member returns to service, ~~he the fund member~~ is entitled to credit for the years of service for which ~~his the fund member's~~ contributions were refunded if ~~he the fund member~~ repays the amount refunded to ~~him the fund member~~ in either a lump sum or a series of payments determined by the PERF board.

SECTION 11. IC 36-8-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. **Except as provided in section 19 of this chapter**, a sheriff may participate in the pension trust in the same manner as a county police officer. In addition, a sheriff who is not participating in the pension trust after the creation of the pension trust in ~~his the sheriff's~~ county may make a payment to the pension trust in the amount of contributions ~~he the sheriff~~ would have made had ~~he the sheriff~~ been participating while a sheriff, plus interest at three percent (3%) compounded annually. The sheriff is entitled to credit for the years of service as a sheriff for all purposes of the pension trust if ~~he the sheriff~~ makes this payment.

SECTION 12. IC 36-8-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) **Except as provided in subsection (c)**, a person entitled to ~~a an~~ interest in or share of a pension or benefit from the trust funds may not, before the actual payment, anticipate it or sell, assign, pledge, mortgage, or

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otherwise dispose of or encumber it. In addition, the interest, share, pension, or benefit is not, before the actual payment, liable for the debts or liabilities of the person entitled to it, nor is it subject to attachment, garnishment, execution, levy, or sale on judicial proceedings, or transferable, voluntarily or involuntarily.

(b) The trustee may expend the sums from the fund that it considers proper for necessary expenses.

(c) This subsection does not apply to the sheriff of a county. Notwithstanding any other provision of this chapter, an employee beneficiary who is receiving a normal or disability monthly pension benefit under this chapter may, after June 30, 2007, authorize the trustee to pay a portion of the employee beneficiary's monthly pension benefit to an insurance provider for the purpose of paying a premium on a policy of insurance for accident, health, or long term care coverage for:

- (1) the employee beneficiary;**
- (2) the employee beneficiary's spouse; or**
- (3) the employee beneficiary's dependents (as defined in Section 152 of the Internal Revenue Code).**

SECTION 13. P.L.29-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: SECTION 4. (a) As used in this SECTION, "PERF board" refers to the public employees' retirement fund board of trustees established by IC 5-10.3-3-1.

(b) As used in this SECTION, "fund" refers to the fund for the defined contribution plan of the legislators' retirement system established by IC 2-3.5-3-2.

(c) Beginning January 1, 2004, the PERF board shall conduct a pilot program concerning:

- (1) the implementation of a member's investment selection; and
- (2) the crediting of a member's contributions and earnings;

for the fund.

(d) The pilot program referred to in subsection (c) must include the following elements:

- (1) Notwithstanding IC 2-3.5-5-3(b)(2), the PERF board shall implement a member's selection under IC 2-3.5-5-3 not later than the next business day following receipt of the member's selection by the PERF board. This date is the effective date of the member's selection.
- (2) Notwithstanding IC 2-3.5-5-3(b)(7), all contributions to a member's account in the fund must be allocated under IC 2-3.5-5-3 not later than the last day of the quarter in which the contributions are received and reconciled in accordance with the

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member's most recent effective direction.

(3) Notwithstanding IC 2-3.5-5-3(c) and IC 2-3.5-5-3(d), when a member retires, becomes disabled, dies, or withdraws from the fund, the amount credited to the member is the market value of the member's investment as of five (5) business days preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date.

(4) Notwithstanding IC 2-3.5-5-4, contributions to the fund under IC 2-3.5-5-4 must be credited to the fund not later than the last day of the quarter in which the contributions were deducted.

(5) Notwithstanding IC 2-3.5-5-5 **(before its repeal on January 1, 2009) or IC 2-3.5-5-5.5**, the state shall make contributions under IC 2-3.5-5-5 **(before its repeal on January 1, 2009) or IC 2-3.5-5-5.5** to the fund not later than the last day of each quarter. ~~The Contributions~~ **made by the state before January 1, 2009**, must equal twenty percent (20%) of the annual salary received by each participant during that quarter. **After December 31, 2008, the amount of the state's contributions is determined under IC 2-3.5-5-5.5.**

(e) Before November 1 ~~2006~~, **of each year**, the PERF board shall report to the pension management oversight commission established by IC 2-5-12 the results of the pilot program referred to in subsection (c) and shall recommend proposed legislation if the report includes a finding that the pilot program should be implemented on a permanent basis. If the PERF board recommends implementing the pilot program on a permanent basis, the PERF board shall provide to the pension management oversight commission a schedule to implement the elements of the pilot program on a permanent basis for all funds for which it has responsibility.

(f) This SECTION expires July 1, ~~2007~~ **2010**.

SECTION 14. [EFFECTIVE JULY 1, 2007] **IC 5-10-5.5-7.5, as added by this act, and IC 5-10-5.5-8, as amended by this act, apply after June 30, 2007, to active participants in the state excise police, gaming agent, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2.**

SECTION 15. [EFFECTIVE JULY 1, 2007] **IC 5-10-5.5-10, IC 5-10-5.5-11, and IC 5-10-5.5-12, all as amended by this act, apply to participants of the state excise police, gaming agent, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2 who retire after June 30, 2007.**

SECTION 16. [EFFECTIVE JULY 1, 2007] **IC 5-10-5.5-7 and IC 5-10-5.5-13.5, both as amended by this act, apply to participants**

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of the state excise police, gaming agent, and conservation enforcement officers' retirement plan established by IC 5-10-5.5-2 who become disabled after June 30, 2007.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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